

## THE CITY OF CLAYTON

Board of Aldermen Meeting  
Council Chambers - 10 N. Bemiston Avenue  
February 8, 2011  
7:00 p.m.

### Minutes

Mayor Goldstein called the meeting to order and requested a roll call. The following individuals were in attendance:

Aldermen: Alex Berger, Steve Lichtenfeld, Judy Goodman, Michelle Harris, Andrea Maddox-Dallas and Cynthia Garnholz

Mayor Goldstein  
City Manager Owens  
City Attorney O'Keefe

Mayor Goldstein asked for any questions or comments relating to the January 25, 2011 minutes, which were previously provided to the Board.

**Alderman Goodman moved to approve the January 25, 2011 minutes. Alderman Lichtenfeld seconded the motion.**

**The motion passed unanimously on a voice vote.**

### **PUBLIC REQUESTS AND PETITIONS**

Beverly Wagner, former Ward 1 alderman addressed the Board stating that she is here to speak about her opposition of the Wydown School proposal, but first wanted to talk about the annexation of Clayton. She said that the City will be celebrating its centennial in 2013 and said that in 1913 Clayton officials heard that University City wanted to annex Clayton and the officials met all night and made an 11<sup>th</sup> hour decision voting to incorporate the City. She said that thanks to the courage of the City fathers the history changed. She said that she is here tonight to plead to the elected officials to make an 11<sup>th</sup> hour decision. She said that she realizes that the City Attorney has informed them at the Plan Commission meeting that the City does not have a lot of authority with regard to the school unless it is an issue that affects safety and health. She feels that there are some real concerns about safety that need to be addressed and fears that the School Board will be voting to pass the plans at its meeting tomorrow evening although the Plan Commission voted unanimously to reject the plan. She said that this project has gotten way out of hand and that the problem with the school plan is inherently flawed. She said that the voters did not approve the current plan and the building is too big and much too large for the site which causes it to encroach upon the neighborhood. She had hoped that the City, neighborhood trustees, and the School Board should meet together to discuss concerns and issues, but has not happened. She pleaded with the Board to submit a statement or something to the School Board in opposition of the proposed plan. She feels that if this plan is approved by the School Board she would hold the City officials ultimately responsible.

Mayor Goldstein thanked Ms. Wagner and stated that both Ward 1 aldermen have been closely following this issue. She said that the City does have limitations and that the Plan Commission has recommended certain changes, but in this case with a public school district or a religious institution the Board of Aldermen has no authority.

Alderman Goodman stated that the Wydown School issue is the hot topic in Ward 1 and she and Alderman Maddox-Dallas have been very involved with meeting with residents and also attending the Board of Education

meetings. She said that it is conceivable that this is the last opportunity for them to talk to the fellow Board members about their view on behalf of their constituents and stated that she is in full support of a brand new middle school. She believes that the students need a new school at Wydown and have needed one for many years. She said that the proposed plan is not up to the standards of the City of Clayton and that there are numerous problems with the plan, but also she recognizes that the Board has no legal authority. She stated that she opposes the Board of Education's plan to vote for approval of the current plan. She said that has watched a number of issues within the Board of Education process and is concerned about the fact that the Wydown Tomorrow priorities that were established by their committee have been overlooked. She stated that this is an impasse for Ward 1 because it is in its backyard, but she thinks that if the school were to be built elsewhere such as Glenridge or Meramec then those officials would be hearing from their residents. She said that she and Alderman Maddox-Dallas have tried to listen and address the concerns of their residents. She said that Clayton School district is very important to the community as well as to her own family and that approximately 80% of Clayton's taxpaying citizens do not have children in the Clayton School District and she is worried that those citizens are not fully aware of what is being constructed on Wydown Boulevard and also the fact that the school did not go through the typical City process of approvals.

Alderman Maddox-Dallas commented that she also agrees with Alderman Goodman's and Ms. Wagner's comments and that the current plan for the school is not up to the standards of the City of Clayton. She said that she very much supports and appreciates the Plan Commission's decision. She is very disappointed that the decision was made to bypass the thorough planning and review process. She said that the process has worked because when you drive the streets of Clayton it's the reason you see what is seen, because people have abided by those ordinances that protect the spaces that are the foundation for the neighborhoods, they guide both new construction and in-fill development, both ensuring a high quality environment and the property values. She said that although the school is being built in Ward 1 it does really affect the environment for the immediate neighborhoods, but also everyone in Clayton who enjoys the award winning street of Wydown Boulevard. She suspects just as Alderman Goodman does, that many do not have children in the School District and are not aware of the situation and may not have been following this issue closely. She said that looking at a picture of the plan is not the same as seeing a big, live building and feels that there will be some surprises. She stated that she opposes the School Board voting on approval of the current plan.

Alderman Lichtenfeld stated that as the Aldermanic representative on the Plan Commission he still feels as he did when they voted unanimously against the School Board's plan. He said that the plan is out of context with the neighborhood and basically within the entire City. He said that the school will have the most immediate impact in the Ward 1 neighborhood but is really a part of the entire City and will change the context of the honored street of Wydown Boulevard as well as the neighborhoods around it. He said that what the City has seen is an abuse of planning concepts we have always strived to uphold in the City of Clayton and also an abuse of the historical relationship between the School District and the City of Clayton. He said that he still supports the Plan Commission's unanimous decision and he certainly would like to go on record again opposing the Board of Education proceeding with the plan as designed.

#### A PUBLIC HEARING AND RESOLUTION TO CONSIDER APPROVING CONDITIONAL USE PERMIT – PERSONAL TRAINING ACADEMY 6617 CLAYTON ROAD

**Alderman Berger moved that the Board open the Public Hearing with regard to Res. No. 11-08, a resolution to approve a Conditional Use Permit for Gateway Crossfit located at 6617 Clayton Road and request proof of publication. Alderman Lichtenfeld seconded.**

**The motion passed unanimously on a voice vote.**

City Manager Owens reported that this is a public hearing and resolution to consider approving a Conditional Use Permit for the proposed operation of a fitness studio to be known as Gateway Crossfit on the first floor of the multi-tenant building addressed 6617 Clayton Road. The space was formerly occupied by an antique shop.

Mark Whitener, owner of Two Dog Fitness, LLC, is requesting a Conditional Use Permit to allow the operation of a personal training studio. This property has a C-2 General Commercial zoning designation and health clubs are allowed with the approval of a Conditional Use Permit.

The studio measures 1,750 square feet in size. The proposed hours of operation are Monday through Friday 6:00 a.m. to 7:00 p.m. and Saturday from 7:00 a.m. to 2:00 p.m. Peak use of the facility is anticipated at two (2) employees and six (6) clients.

Interior painting has been completed and new flooring installed in preparation for the proposed use. The tenant space includes a reception area, fitness area, changing room and office. Clients may access the business through front entrances sharing a common corridor with the property at 6619 Clayton Road. Two restrooms are shared between the tenants at 6617 and 6619 Clayton Road. Trash will be stored in a dumpster at the rear of the building.

Up to thirty (30) parking spaces are available for tenant use on a surface lot located on the corner of Alamo and St. Rita Avenues. This surface lot is available for tenants of Ka Tom Jon, LLC's building and is available for use Monday through Friday until 7:00 p.m. The applicant has secured an additional six (6) spaces on Ambruster's surface lot located at 6633 Clayton Road for use on Saturdays.

Recommendation is to approve a Conditional Use Permit for the operation of Gateway Crossfit at 6617 Clayton Road.

Mr. Mark Whitener, owner and Mr. John Sieler, partner addressed the Board thanking them for the opportunity.

In response to the Board's questions, Mr. Whitener stated that this is their first business venture and they are hoping to open as soon as possible.

Ms. Mimi Deem, resident 6624 Alamo addressed the Board with her concerns regarding the parking arrangements on the surface parking lot. She reminded the owners that the surface lot is not a 24-hour parking lot and it is only available for use from 7:00 a.m. to 7:00 p.m.

**Alderman Berger moved that the Board close the Public Hearing with regard to 11-08, a resolution to approve a Conditional Use Permit for Gateway Crossfit located at 6617 Clayton Road. Alderman Lichtenfeld seconded.**

**The motion passed unanimously on a voice vote.**

**Alderman Berger moved to approve Res. No. 11-08 and approve a Conditional Use Permit for Gateway Crossfit located at 6617 Clayton Road. Alderman Lichtenfeld seconded.**

**The motion passed unanimously on a voice vote.**

**A RESOLUTION TO CONSIDER APPROVING AN AMENDMENT TO A CONDITIONAL USE PERMIT FOR TANI SUSHI BISTRO 16 SOUTH BEMISTON AVENUE**

City Manager Owens reported that this is a resolution to consider approving an amendment to the Conditional Use Permit issued on January 25, 2008 and amended on October 13, 2009 for the operation of Tani Sushi Bistro. The 2009 amendment allowed an expansion of the operation into the adjacent tenant space addressed 14 South Bemiston Avenue. At the time of amendment, the applicant secured additional parking to accommodate the additional seating capacity. The restaurant currently has twenty-three (23) parking spaces secured.

This request for amendment is to allow the expansion of their outdoor seating capacity by the construction of a new outdoor deck to be located at the rear of the building. Additional parking spaces are not required due to

this amendment being limited to outdoor seating capacity, which is not considered when calculating required number of parking spaces.

The existing restaurant measures 3,763 square feet with an interior seating capacity of 134. The proposed deck will measure 497 square feet with a seating capacity of 35. The existing outdoor dining area in front of the establishment accommodates seating for 20 patrons.

The deck will be covered with an awning and outdoor heaters will be used during cooler weather. The deck will be accessed through a hallway from the main restaurant and private dining area. A stairwell, to be constructed off the deck will provide access to the dumpster area at ground level. The stairway will be gated and is not intended for entry and/or exit to or from the restaurant.

Other aspects of the restaurant, including operating hours, will remain the same.

Recommendation is to approve an amendment to the Conditional Use Permit for Tani Sushi Bistro at 16 South Bemiston Avenue.

**Alderman Berger moved to approve Resolution No. 11-09, an amendment to the Conditional Use Permit for Tani Sushi Bistro at 16 South Bemiston Avenue. Alderman Lichtenfeld seconded.**

Tyler Stevens, Core 10 Architecture, Inc., addressed the Board stating that they are expanding the area behind the restaurant by connecting both 14 & 16 South Bemiston with an outdoor deck for raised dining. He explained that the deck will be covered with a retractable roof and that they will also be sprucing up the alley.

**The motion passed unanimously on a voice vote.**

#### A RESOLUTION TO APPROVE AMBULANCE COST RECOVERY FEES FOR EMERGENCY MEDICAL SERVICE USERS

City Manager Owens reported that the Clayton Fire Department has provided ambulance service to the community since 1937 and paramedic level advanced life support since the early 1970's. In order to continue to provide the highest quality service to the patients, several years ago the community chose to adopt an ambulance service user fee system. Periodically the user fees charged by the Fire Department are evaluated and adjusted to meet current operational costs. The last significant ambulance fee schedule adjustment was implemented four years ago. The Fire Department has recently completed its annual service cost evaluation and determined that several of our user fees no longer recover the cost of providing the service. Also, we are recommending the addition of three new user fees for patients that are treated but are not transported to the hospital. We have worked closely with our ambulance billing contractor to review current industry billing practices and regulations. Our contractor believes our proposed fees are in line with current practice and comply with appropriate Federal and State regulations. The recommended fees will allow the City to recover service costs and remain at or near the average cost of the service in the St Louis County area

In addition to the transportation fees, the Fire Department currently charges user fees for certain special event services. The Department is recommending that these fees be increased to reflect the increase in staffing costs since the last fee adjustment which are identified in the proposed fee schedule.

An additional category of "treatment but no transport" is being recommended based on changes in medical care standards and practices that now allow specific patients to be provided care by our paramedics without being taken to a hospital. Without the addition of this fee group, Clayton is not able to recoup the cost of this care which can be hundreds of dollars per patient. These proposed fees are:

Invasive Advanced Life Support (ALS) Fee: \$650

This fee is charged when invasive ALS procedures have been performed (IV, medication administration, etc.) and the patient is not transported to a hospital for continued care.

Invasive Advanced Life Support Level 2 Fee: \$800

This fee is charged when the above criteria have been met and more than 2 different medications have been administered by IV.

Pronouncing Death Fee (same as Invasive Advanced Life Support): \$650

This fee is charged when EMS is summoned to a scene and pronounces a patient deceased without performing lifesaving efforts. Per Medicare guidelines, this pronouncing must occur after the ambulance is dispatched.

Revenue Projections: For FY 2010, a total of 842 calls were billed by the Clayton Fire Department. Of these, 28 were billed at the BLS level, 800 at the ALS level, and 14 at the ALS-2 level. Implementation of the proposed rate structure based on these call figures would produce an additional \$129,800 per year in billed fees. As you are aware, we do not collect 100% of the billable fees as a result of Medicare and Medicaid regulations. We estimate the net increase in revenue to be closer to \$90,000 per year.

Recommendation is to approve the resolution adopting an updated ambulance service user fee schedule, to be effective March 1, 2011.

**Alderman Berger moved to approve Resolution No. 11-10, ambulance cost recovery fees for emergency medical service users. Alderman Lichtenfeld seconded.**

In response to Alderman Harris' question, Chief Thorpe stated that they receive very few life support calls so the fee for basic life support was kept at a lower level

In response to Alderman Garnholz's question, Chief Thorpe stated that the mileage costs are based on an average of all services provided. He explained that there are a number of ambulance services that choose not to charge for mileage due to additional reporting, and Clayton decided to include the fee. He added that the number for the mileage fee is based on an average cost because not all services require transportation.

In response to Mayor Goldstein's question, Chief Thorpe stated that they had a minor fee adjustment approximately two years ago, but a major fee adjustment occurred four years ago.

In response to Alderman Lichtenfeld's question, Chief Thorpe stated that the City recoups nearly 100% from private insurance plans.

In response to Alderman Goodman's question, Chief Thorpe stated that retrieving patient's insurance information depends on the type of medical circumstance and that sometimes the patient can provide an insurance card at the time of the service. Most times they get the information from the hospital after the patient is serviced and transported.

**The motion passed unanimously on a voice vote.**

#### A RESOLUTION TO APPROVE A CONTRACT WITH SBC CONTRACTING, INC. FOR THE SIDEWALK REPLACEMENT – FY 2011 PROJECT

City Manager Owens reported that bids were opened on January 14, 2011, for the Sidewalk Replacement – FY 2011 Project. The City received six (6) responsive bids as shown on the attached bid tabulation. SBC Contracting submitted the low base bid in the amount of \$159,446.00 and the low alternate bid in the amount of \$4,542.70, for a total bid of \$163,988.70.

The scope of work consists of the removal and replacement of sidewalks, curb and gutter, brick pavers, driveway aprons, and other work related to the repair of walking surfaces and the removal of barriers and trip hazards at various locations throughout the City of Clayton.

The Capital Improvement Fund has \$190,000 budgeted for this activity in FY 2011. Public Works is requesting approval of the contract for \$163,988.70, which represents the bid submitted by SBC Contracting. In addition, the Director of Public Works is requesting authorization to approve change orders in a cumulative amount not to exceed \$26,000, which is approximately 14% of the project cost. This contingency would be used to cover expenditures to correct unknown site issues that become apparent during the project.

Staff recommendation is to approve the resolution authorizing a contract with SBC Contracting, Inc. in the amount of \$163,988.70, plus a contingency of \$26,000 for the Sidewalk Replacement – FY 2011 Project.

In response to Alderman Lichtenfeld's question, Mike Pratt explained that the City has worked well with SBC Contracting on several projects and although their bid is 25% higher than the next lowest bid he is very confident in not only their work, but also their bid.

City Manager Owens commented that in reflecting back on other projects, the Public Works staff does a very thorough job in monitoring on-site work and that those contractors are also aware of the City's standards on projects.

In response to the Board's questions regarding the brick print crosswalks, Mike Pratt explained in great detail the process involved in replacing or repairing of the crosswalks and the extensive work that was done.

Alderman Berger commented that the original initiative for the crosswalks was due to a response to citizens who were looking to the City to find ways to give pedestrians additional safety. He said that in despite of what he thinks is a consensus in general of what the City selected for a number of reasons he suggests that they revisit to see whether or not such crosswalks as what is being talked about actually add to pedestrian safety or whether they are "window dressings." He recommends that they take a look at the original reason why the money was spent and he said seriously that the City should do a high heel test before spending the money because a majority of the citizens here in Clayton are those who wear that particular footwear.

City Manager Owens recalled that one of the factors for installing the brick print crosswalks was to aid the safety in visually impaired individuals and recalled that the Board saw a video presentation.

Alderman Maddox-Dallas commented that she has noticed when she travels in other places/cities that the motorists are more respectful to acknowledging pedestrian crosswalks.

Mayor Goldstein recommended that when they begin studying this issue again they can revisit all of the reasons such as, the visually impaired, safety of the pedestrians, visibility to drivers, as a follow-up in preparation of addressing the issues with the crosswalks.

**The motion passed unanimously on a voice vote.**

## FY2011 QUARTERLY FINANCIAL REPORT

Don Yucuis gave a brief PowerPoint presentation on the FY2011 Quarterly Financial Report.

In response to the Board's question regarding the retirement fund, Alderman Berger stated that the recoveries in terms of the percentage increase are still not meeting the 7% target. He said that this means that the City will have to pay additional money to make the projection that the actuary has established. He added that the pension plan is in very good shape and certainly the comparisons to other cities show that Clayton is way above almost everyone else. He said that the challenge on the pension is the fact the City has had a pretty tough couple of years and like everyone else we are rebuilding. He said that they had a good UERF meeting this week and they may be looking at the 7% target and may reevaluate it.

## Other

Mayor Goldstein gave a brief update on the MYAC and stated that the group is working on a project and has tentatively targeted March 31<sup>st</sup> to hold an open community event to meet the Board of Aldermen and Board of Education April 5, 2011 Election candidates. Their project will also include a Clayton High School senior voter registration drive and a possible opportunity to outreach to senior citizens to help with absentee balloting.

Mayor Goldstein also announced that the MYAC is connecting with the Clayton High School Green Club to possibly work together on the Green Power Community Challenge.

Mayor Goldstein commended the Public Works staff on a job well done in keeping the City's streets and sidewalks cleared during and after the recent snow storms.

Mayor Goldstein announced that the staff is working on a citizen outreach project to hold a Family Day event at The Center of Clayton.

Mayor Goldstein announced that Alderman Berger attended his last Uniformed Employee's Retirement Fund Board meeting this week to which he has served on the Board for the last eight years. She commended Alderman Berger for a job well done!

Mayor Goldstein stated that the City Clerk confirmed with the St. Louis County Election Commission that the certified election results for the April 2011 election will not be received in time for the first meeting in April. Therefore, the Board will approve certification of the election results at the second meeting in April followed by a reception to celebrate Alderman Berger's service.

Alderman Berger thanked Mayor Goldstein for her kind words. He commended the Public Works staff for an excellent job with snow/ice removal and stated that there is no other city in the St. Louis region that can compare to Clayton.

Alderman Lichtenfeld also commended Public Works on a great job stating that staff at his office is always pleased as they cross into Clayton's border and experience the clear streets and sidewalks.

Alderman Lichtenfeld commended the Police Department's detective staff on solving some recent crimes and thanked Chief Byrne for a job well done.

Alderman Goodman announced that the St. Louis County Municipal League is scheduled to hold a press conference this week declaring 2011 as the *Year of the City*.

City Manager Owens announced that Patty DeForrest was elected president of the Missouri Parks & Recreation Commission.

**Alderman Garnholz moved that the Board adjourn to a closed meeting, with a closed vote and record, as authorized by Section 610.021(1), (2) and (3) Revised Statutes of Missouri, relating to legal issues, real estate and/or personnel, and to discuss matters related to negotiation of a contract pursuant to Section 610.021(12), RSMo. and/or proprietary information pursuant to Sec. 610.021(15). Alderman Goodman seconded the motion. The motion passed unanimously on a roll call vote cast as follows: Alderman Berger – Aye; Alderman Lichtenfeld – Aye; Alderman Goodman – Aye; Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; and Mayor Goldstein – Aye.**

There being no further regular business the meeting adjourned at 8:15 p.m.

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Mayor

ATTEST:

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City Clerk